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OGC Has Reviewed

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22 April 1970

MEMORANDUM FOR: Deputy Director for Support

SUBJECT: Employee Parking

REFERENCE: Memo to DDS from D/L, dtd 13 April 1970,
Subject: Government Provided Employee
Parking

1. This memorandum is for the information of the Deputy Director for Support.
2. The referenced memorandum sets forth for your consideration the rationale for providing parking for Agency employees serving in the Rosslyn and other areas outside of Langley but in the Metropolitan Washington area. Certain legal issues may be identified in considering this proposal.
3. The first issue is whether the two recent Comptroller General decisions (B-163096 of 9 February 1970 and B-163946 of 26 February 1970) would allow for rental of parking space for employees by separate contract for office space being occupied by those employees. The GSA order PBS 7030.2B of 18 April 1968, Subject: Vehicle Parking Facilities, states at paragraph 10: "...under certain conditions and circumstances, parking may be leased by GSA in connection with the leasing of space to be assigned to Federal agencies." However, the 9 February decision does not so limit the authority of GSA to procure parking space to situations where it is contracting for office space and is simply adding this cost to the contract. Therefore, we would perceive no legal objection to approaching GSA to lease parking facilities both within and outside the buildings in which space is being rented for Agency use in order to accommodate employee vehicles, provided the other criteria for paragraph 10 of the GSA Order cited above are present.

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4. The criteria set forth in paragraph 10 of the Order appear to be mutually exclusive within subparagraphs (copy attached). Ignoring subparagraphs a & b, subparagraph c appears to lend the best support for providing parking in Rosslyn and other areas. After addressing itself to avoidance of "a significant impairment of the operating efficiency of the agency" and the need for employing and retaining personnel to perform work at that location, it sets forth factors to be considered such as: hours of employment, adequacy and cost of public transportation, location of facility in relation to residences of employees, amount of on-street parking, cost of off-street parking, and the safety of employees using public transportation. The 26 February opinion allowed the Navy Department to use funds appropriated for leased space in the Rosslyn area for parking provided the above criteria were met.

5. The 26 February opinion distinguishes an earlier GAO opinion disallowing the Coast Guard authority to lease property and prepare it for a parking lot. The Comptroller General states:

"Legally there was not considered in that case the leasing authority of the General Services Administration under the Federal Properties and Administrative Services Act."

Thus, the authority for leasing parking space is limited to that given to GSA by statute. Although this presents no problem with regard to the Rosslyn area, it could complicate reimbursement for parking in areas where employees are under unofficial cover. We would perceive no legal objection in these isolated cases of utilizing the Director's authority to allow the cover organization to negotiate directly for space. In small units where even this is not practical, the employee himself could contract for parking personally for reimbursement by the Agency.

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Assistant General Counsel

Attachments

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